

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION


UNITED STATES OF AMERICA ex rel.))	
DECORY DEVELL FRANKLIN #R28072,)	
)	
Petitioner,)	
)	
v.)	No. 13 C 3973
)	
MICHAEL LEMKE, Warden,)	
)	
Respondent.)	

MEMORANDUM OPINION AND ORDER

This Court's June 4, 2013 memorandum opinion and order ("Opinion") parsed what it found to be the untimeliness of the 28 U.S.C. §2254 Petition for Writ of Habeas Corpus ("Petition") in detail and held that the Petition is "clearly untimely" under 28 U.S.C. §2244(d). Because timeliness under that statute is not jurisdictional, however, this Court concluded the Opinion by transmitting a copy to the Illinois Attorney General's Office to inquire whether that office would waive the statute of limitations or would instead move for dismissal on untimeliness grounds.

On June 18 the Attorney General's Office, on behalf of Respondent Warden Michael Lemke, filed a written Notice of Intent To Move To Dismiss, confirming that no waiver would be forthcoming and that dismissal would be sought based on the Petition's untimeliness. That being the case, in the language of Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, "it plainly appears from the petition and

any attached exhibits that the petitioner is not entitled to relief in the district court." Accordingly, as directed by Rule 4, this Court dismisses the Petition and this action.

A handwritten signature in black ink, reading "Milton I. Shadur". The signature is written in a cursive, flowing style with a large initial 'M'.

Milton I. Shadur
Senior United States District Judge

Date: June 20, 2013